

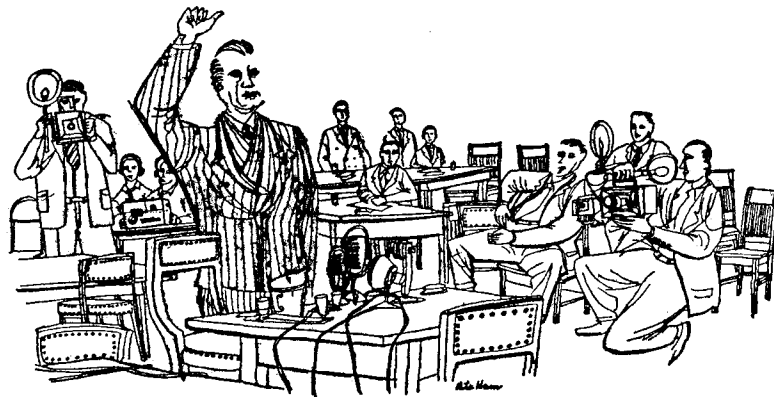
The Great Debate on EDC

—Robert Barrat

THE
Commonweal

The Administration and Civil Liberties

by **William V. Shannon**



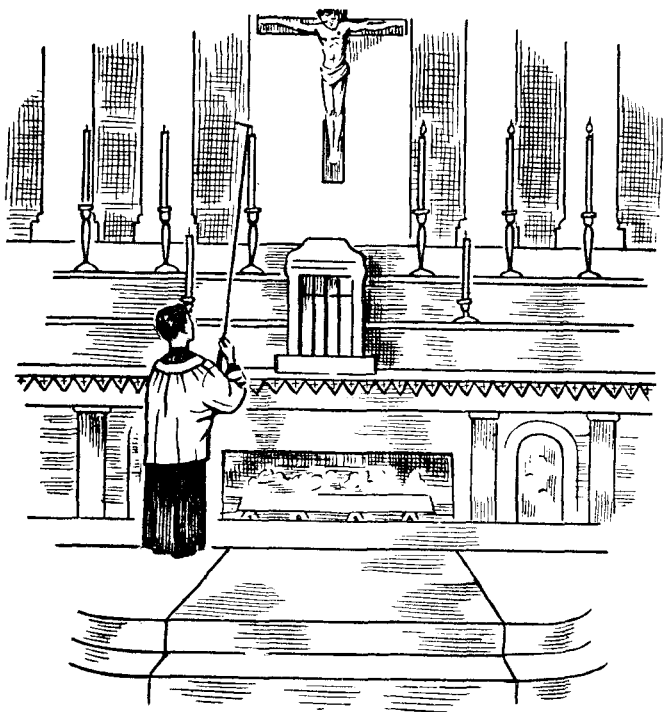
Freedom of the Screen

by **William P. Clancy**

Volume LIX, No. 20

February 19, 1954

Twenty Cents



New light on an old problem

CANDLES, particularly tall ones on the gradines of an altar, at times seem perversely resistant to all attempts to light them. When last extinguished, wicks may have been pressed into the molten wax . . . snapped off close to their bases . . . or cocked at awkward angles. In any event, time drags and exasperation mounts as the altar boy or sacristan seeks to effect combustion with the tip of his taper lighter.

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THE Commonweal

week by week

COLD WAR AND COLD PEACE

AS this editorial goes to press, the Big Four Conference in Berlin is two weeks old. Nothing has been agreed upon beyond the agenda. That is not surprising, although it is hardly occasion for pleasure. But there have been secondary consequences at Berlin, between-the-lines happenings, which are of real interest.

The meeting began with Russia's proposing an agenda which listed a proposal for a Big Five Conference, including Communist China, to take up disarmament and Far Eastern problems. The West accepted this agenda, and Molotov agreed to a postponement of the consideration of the Big Five meeting until later in the Berlin Conference. So the Four immediately got down to the business of German unification.

Foreign Minister Eden stated the Western plan for Germany: free all-German elections, to be followed by the formation of a constitutional convention, which would establish a government, which in turn would negotiate a peace treaty. In short, through free elections, the German people would take control of their own future, free to conduct a foreign policy as they might see fit. The West would gamble that the Germans would not choose Communism.

The Russian counter-proposal was that the existing East and West German governments should join the negotiations (which would give the Communist East German Government equality with the popularly-elected Bonn Government). Molotov then proposed that any election plan should include "all democratic organizations" and guard against the "big monopolies." This last suggestion could hardly have been put forward seriously; its language is to be translated into English as meaning that Communist groups would be favored and the parties of the West excluded from the elections.

So at the end of the second week, there had been a flurry of hope, and then, after a Soviet failure to separate France's Bidault from his Western colleagues, the Russians relaxed into their old preposterous stand on German unification: unification as

either a Communist state or a paralyzed coalition, or no unification at all.

This situation has a bitter flavor after the speculation which has gone on in Europe during recent months: talk of new Soviet relaxation, highly imaginative theorizing about how the German problem was to be solved, remonstrances against U. S. "inflexibility"—all this skipping over the possibility that Mr. Molotov might say "no." Well, now he has said it.

THE interesting aspect of the Conference, thus far, is the gracious manner in which Molotov has said "no." He is no longer playing the cracked old record which in the past dulled the atmosphere of so many UN sessions. Now he says "no" in a way which suggests that there might be a dusty, qualified "yes" tucked away in the corner of his mind. He has begun conversations with Mr. Dulles about the President's atomic plan, and suggested the possibility of an agreement on atomic warfare similar to the Geneva Convention on poison gas: neither side would dispose of its atomic weapons, but both would promise not to initiate their use.

The Russians have also shown an off-duty affability at Berlin which matches the recent expansion of social activities at the Soviet embassies in the West. Our negotiators may be unable to agree with the Russians, but once again they are enjoying their ballet and vodka. In these private conversations the Russians are saying that they really want realistic agreements, and that their principal desire right now is a stabilization of external relations which would permit them to concentrate on raising domestic living standards.

So there are three threads which may be picked out of the Berlin pattern: an absolute unwillingness to allow a free, non-Communist Germany; a softer, less doctrinaire approach to partial atomic controls; and a discreet propaganda line about the desirability of what has been christened "cold peace." One summary of the evidence might be this: The Rus-

sians will not negotiate away any Communist territory or concede any point for which they do not get tenfold return. But they do seem willing to talk seriously about matters on which, without surrendering an advantage, they can gain an agreement useful to both East and West. We can have some hope for a stalemate or cold peace, but we ought not expect either settlements or Communist retreats.

COFFEE HOLIDAYS

IT is producers, rather than consumers, who call the turn here in the United States. In some areas we get the benefit of genuine competition; in many others we are victims of pricing and marketing agreements between supposed competitors. But in any case, whether it be in managerial headquarters or legislative halls, consumers are on the receiving, rather than the directing, end.

Resentment of this status, if latent, is widespread. That is why it is relatively easy to get warm support for buyers' strikes—especially when living costs are at a peak and/or sharply rising. Then for brief, rare moments the American consumer as such comes into his own. The housewives and city officials in such localities as Brooklyn, Detroit, Hollywood, Philadelphia, Toledo who are now promoting "coffee holidays" resort to a recurringly familiar pattern.

This time, however, the commodity is produced abroad; a substantial boycott would have important repercussions in other lands. One big reason for the price rise is the damage from severe frosts in the last Brazilian winter, just when demand from Germany and France had greatly risen. (It takes five years for coffee trees to bear and two or three years to recover from frost damage.)

Besides when we consider, as President Figueres

NEXT WEEK

WILLIAM L. GROSSMAN writes about the irony of the noted Brazilian novelist, Machado de Assis.

His *Epitaph of a Small Winner* "present modern man's spiritual dilemma: the inadequacy of the natural and the incredibility of the divine. The book—and, on a larger scale, Machado's ironic fiction in its entirety—traces this dilemma by means of a systematic critique of human aspiration, woven through a maze of seeming irrelevancies. The result is a philosophy in mosaic, coherent despite its apparently haphazard presentation."

of Costa Rica said in these pages a few weeks ago, that the income of the Latin-American coffee worker is one-tenth the average income here in the United States, it appears we could afford to pay more for our coffee. When we think of those actually employed in producing coffee, it takes much of the fun out of getting along on palatable coffee substitutes. But when it comes to the effect on prices of speculation in coffee futures in our own Coffee and Sugar Exchange, the story is quite different.

THE DIMENSIONS OF MERCY

UNDER the terms of the 1953 legislation for the relief of refugees, slightly over two hundred thousand persons were to be admitted to this country over a period of three years. Despite the fact that many religious and civic groups would have preferred outright revision of the McCarran-Walter immigration act, they nevertheless welcomed the refugee legislation as a temporary measure designed to meet a pressing need. But although the refugee legislation became effective last August, the requirements it laid down for entrance are so complex that the expected flow of refugees has been a mere trickle. Some have even charged that only four persons have thus far entered the country under the new legislation. That the total is quite so small was denied by the administrator of the act, but he declined to say just how many have entered. Certainly the total has been numerically insignificant.

Stirred into action by a rising tide of complaints, the State Department now plans to send more than fifty special security agents abroad in an effort to speed up the workings of the cumbersome law. This is a welcome move. The attitude enshrined in our basic immigration legislation is not generous at best; to make the admission of refugees under the special legislation so tortuously slow, only makes an already unhappy situation worse.

TURKEY

THE recent visit to the U.S. of President Celal Bayar, of Turkey, focused national attention on one of our staunchest and most popular allies. The proportionate contribution of the Turks to the Korean war effort far overshadowed that made by most other UN nations. The Turks are militarily strong and united in their will to resist Soviet aggression. Since its last election (really the first truly free election in the nation's history) when President Bayar's Democratic Party was swept into office by a huge majority, Turkey seems to be well on the way to-

ward operating according to a genuine two-party system.

In short, there is every reason to feel warm friendship for modern Turkey. But when it is asked—often impatiently—why other nations do not come up to the same standard, certain historical factors should be kept in mind.

Other nations have not all had their Kemal Attaturk, who Westernized and “secularized” the land of the Sultans—and succeeded brilliantly. Attaturk took sweeping measures, and often quite autocratic measures, to modernize Turkey. For instance, he abolished the privileges of Islam and placed disabilities on the public expression of all religions. In today’s Turkey many people who find that the new generation is growing up without religious education of any kind are questioning whether the pendulum may not actually have been swung too far in the direction of “secularization.” It is the old question of how far “secularization” can go before it actually becomes the religion of secularism.

Again, there is an historic distrust of Russia in Turkey; this too, is a weighty factor in judging the Turks’ contribution to the Western alliance. It is Russia, the traditional enemy, that Turkey distrusts above all—the fact that Russia is at present a Communist country is secondary. A capitalist Russia would be just as suspect. Turkey, it should be remembered, remained neutral during most of the Second World War. Not until January, 1945, were the Turks persuaded to declare war on Hitler. Neutralist sentiments between 1939-44 were as common in Turkey then as they are in other nations today. The Turks, who share borders with Russia and have fought a number of wars with her, regard Soviet imperialism more as an immediate military possibility than as an ideological assault.

Historic memories play an important role in world politics. The traditional French-German antipathies complicate present EDC plans, as M. Barlat points up in his dispatch on page 494. In the case of Turkey, the traditional suspicion of Russia engendered a neutralist sentiment throughout the Second World War. Today, the same suspicion has been a notable factor in earning for the Turks their reputation as a leading anti-Communist power.

CUTTING COSTS

HARD on the heels of President Eisenhower’s proposals to Congress for a national housing program came an encouraging sign from the building industry itself. From their meeting-place in Miami Beach, the AFL Building Trades unions announced plans for a series of meetings with con-

tractors, designed to eliminate practices which unnecessarily inflate building costs.

This news represents a constructive decision which should work to the long-range benefit of the entire industry, as well as the general public. Nothing antagonizes the public as much as practices felt to be wasteful and unnecessary, and with post-war prosperity declining serious danger was developing that the building industry would price itself out of the market. But there is no doubt that if the price of homes can be cut without resorting to the cheap and shoddy, there are millions of families in the United States who both need and want better housing.

RELIGION IN SPAIN

A RECENT report on the state of religion among Spanish workers has been widely publicized in the American press. This report appeared in the pages of *Ecclesia*, the official journal of Spanish Catholic Action and the only magazine in Spain free from government censorship.

“The overwhelming majority of Spanish workers,” according to the report, are not practicing Catholics and among them there exists a widespread apathy and ignorance of religious matters. Generally, it was said, Spanish workers (1) believe the Church favors the moneyed classes, (2) prefer that priests keep out of politics, (3) prefer that the Church and the State should be independent of each other.

The report stated that although the workers “appreciate the benefits accruing from the social legislation of the Spanish state, quite a few of them attribute that policy not so much to the reason of justice, but the need for avoiding the advance and penetration of Communism.” The chief reasons given by *Ecclesia* for the workers’ attitude were poverty and the presence of a “Marxist virus.” The one hopeful sign found was that “the Spanish worker does not have a feeling of contempt for religion; he has instead a foundation of religious conscience that makes possible its revival.”

Discouraging as this report is, it should not be surprising to anyone aware of the realities of social and economic life in Franco Spain. And it should help to correct the inordinate romanticizing done by some over “Catholic” Spain. *Ecclesia* pointed the obvious moral in its follow-up editorial when it warned: “beware of a comfortable attitude of complacency toward brilliant processions and of indulging in the rash assumption that law and the police are enough to check silent storms, well-founded discontent and rampant social injustice.”

The Administration and Civil Liberties

ITS PROBLEM HAS BEEN TO COMBAT THE MENACE OF SOVIET SUBVERSION
WITHOUT COMPROMISING TRADITIONAL AMERICAN PROCEDURES.

WILLIAM V. SHANNON

CHARLES Evans Hughes was president of the American Bar Association in 1925. In his presidential address that year, he observed that "the most ominous sign of our times, as it seems to me, is the growth of an intolerant spirit. It is the more dangerous when armed, as it usually is, with sincere conviction. . . . It can be exorcised only by invoking the Genius which watched over our infancy and has guided our development—the American spirit of civil and religious liberty. Our institutions were not devised to bring about uniformity of opinion; if they had been we might well abandon hope."

Hughes warned that "especially should we be on our guard against varieties of a false Americanism which professes to maintain American institutions while dethroning American ideals. . . . The interests of liberty are peculiarly those of individuals and hence of minorities, and freedom is in danger of being slain at her own altars if the passion for uniformity and control of opinion gathers head."

Ours is a time peculiarly beset by "varieties of a false Americanism." The dangers against which Hughes warned were already on the wane in 1925 only to return in recent years in more menacing and ugly shapes. They are far more difficult to unmask and combat today because the first year of the Eisenhower Administration has been a time of real perils we never knew in the quiet world of Calvin Coolidge.

A token of the change is the decline in meaning of the phrase "witchhunt." The activities of the demagogues and superpatriots in the early twenties—the Palmer raids, the Ku Klux Klan, the banning of Socialists from the New York Assembly, the persecution of Scopes and of Sacco and Vanzetti, the coercion of liberal school teachers—were directed against "witches." The "red menace" then was indeed the phantom of diseased imaginations.

But the "witch" is now a reality. Soviet imperialism abroad and Communist subversion at home are twin menaces to security and freedom. Senator McCarthy and his allies prosper because the American people

have a genuine and understandable concern, rooted in fact and not in fantasy, about the dangers of Communism. "Witchhunt" has thus become an outmoded phrase: it obscures rather than clarifies the problems posed by the clear and present danger that confronts us.

THE task of the Eisenhower Administration in its first year was the same as that of the Truman Administration, as it will be the task of whatever Administration may succeed it. The task is to contain and reduce the menace of espionage and infiltration by the Soviet government and its American apparatus without curbing or compromising our civil liberties in the process.

The Republican Party has an old and distinguished tradition in the field of civil liberties. No twentieth century Republican President has a bad record in this area. Learned Hand, Augustus Hand, Oliver Wendell Holmes, Benjamin Cardozo, and Harlan Stone were Republican appointments to the bench. In and out of public life, the party's greatest men from Hughes to Taft to Stimson and Willkie have been defenders of the embattled individual and the persecuted minority.

Given the changed character of the Marxist movement since the triumph of the Stalinist system in Russia, it should be even easier for contemporary conservatives to understand the present situation and cope with it affirmatively than it was for their liberal predecessors. Bolshevism prior to the nineteen-twenties was seen as a domestic menace to private property; it called up visions of armed mobs marching in the streets to the tune of the *Internationale* and of bewhiskered fanatics throwing bombs at J. P. Morgan's Wall Street office. Communism suggests no such quaint and romantic pictures today. The Stalinist dictatorship with its rigidly-controlled Cominform and its ill-concealed imperialist motives has transformed worldwide Marxism from an insurrectionist popular movement into an instrument of espionage and political warfare. Communism is not a political movement; it is a department of sedition. As such, it is a security problem best handled by the police. The problem it presents to public officials is to see that

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the necessarily illiberal methods and temper of police work do not infect the rest of society. Were these methods and this temper to permeate our daily lives it would be a profound betrayal of American institutions. Conservatives, with the property system they defend no longer menaced, should thus be the best civil libertarians, for the conserving of our institutions is obviously their central task.

Senator Joseph R. McCarthy has come to represent the danger of infecting the whole of American life with the illiberal spirit of police methods. In our present situation he plays the role of a Typhoid Mary. He is neither a trained policeman or skillful investigator nor the victim of any hysteria about the Communist menace. He is only a plague-carrier wandering up and down the highways and byways of American life leaving the germs of fear and suspicion and conformism wherever he travels.

It is important to note that McCarthy has not killed the country; he has only made it mildly sick. That is to say, the basic liberties of Americans are still intact. Men worship as they please, write books, and speak their minds. In the ultimate test, our courts still offer the sanctuary of a fair trial to the accused even if their crimes be treason or atomic espionage. It is the fact that these most fundamental liberties are secure that makes most European comments on McCarthyism excessive and false and that also makes it hard for many Americans to see what harm McCarthy has done.

McCarthy has accomplished not a profound but a dingy betrayal of American institutions, poisoned their spirit but not killed their life. Because of him, some men and women are not able to practice their trade or profession, some do not speak as bravely as they might, some have lost their good name though guilty of no legal offense, some liberals find it difficult to rent public halls in which to assemble freely, and worthwhile organizations suffer because many no longer care to sign their names to anything more than their paycheck. These and other losses make up that silent shrinkage of the spirit which is the real damage McCarthy and his lesser comrades have done us.

In electing Mr. Eisenhower, the American people put to the test the widely-advanced theory that the moderate, responsible conservatives of the Republican Party as typified by the Dewey-Brownell-Duff group could do a better job of destroying McCarthy's influence than could the liberals of the Democratic Party. McCarthyism, it was argued, was a result of the Republican Party's long absence from power. Elect the moderate Republicans, it was said, and they would tame their own flock. It was a persuasive thesis. It has failed—at least thus far.

The Republican victory, by enabling McCarthy to become chairman of the Permanent Investigating Subcommittee, gave him an opportunity he has not neg-

lected. For five hectic months, he turned the Voice of America and the Overseas Library program upside-down. President Eisenhower ultimately spoke out against "book burners" but held back from including McCarthy within that term. All books of authors with alleged present or past Communist connections were first withdrawn from the library shelves, then ordered restored in July. Newsmen abroad, however, found that at least in Bonn and Berlin the books proscribed by McCarthy were never restored despite the July order. Washington officials took refuge in the position that local librarians were free to exercise discretion in implementing the restoration order. As a result of the McCarthy investigation into the Voice and library programs Mr. Eisenhower's first administrator resigned and one Voice engineer committed suicide while under attack by McCarthy, but no Communist was uncovered in either operation, and the effectiveness of the Voice program was severely hampered.

McCarthy turned from this noisy and inconclusive business to an investigation of the Fort Monmouth radar center. He held secret hearings from which the press was excluded. He announced periodically that he was uncovering espionage, that a mystery witness had broken down and decided to change his testimony, and that the committee staff had located a German scientist who testified to having seen American radar documents in use in East Germany. The Defense Department suspended more than thirty scientists on security grounds.

McCarthy subsequently conceded he could uncover no spies at Monmouth. The "mystery witness" subsequently explained that he had collapsed under questioning because of the emotional strain following the death of his mother. The German scientist proved to be a twenty-five year old man whose story had been thoroughly investigated and disproved by Air Force intelligence in 1952. Army Secretary Stevens said publicly that Army Intelligence could find no evidence of espionage at Monmouth and knew of no missing documents. None of the suspended scientists was accused of being either a spy or a Communist and none pleaded the Fifth Amendment. Some have already been restored to their jobs.

The President and his responsible colleagues did not support their subordinates against McCarthy's destructive tactics in either of these investigations. After one year of Republican rule, his power and prestige persist unchecked.

THE Eisenhower administration inherited the perplexing government loyalty program. Repeated attacks from McCarthy and other Republicans had undermined public confidence in the loyalty procedures set up by President Truman in 1947. There is no doubt that that program represented invasion of our basic

Constitutional liberties. The loyalty boards that heard the cases of the accused had nothing to go on except the word of the Federal Bureau of Investigation which transmitted information from anonymous witnesses. There was no opportunity for board members or defense counsel to cross-examine the unknown informant to determine for themselves whether he was worthy of belief. While it is true that government employment is a privilege and not a right, it is also true that dismissal as a disloyal person or a security risk can be a graver handicap to the individual than conviction in open court on a felony charge. (Many corporations will give an ex-convict a second chance but who wants to take a risk with a suspected Communist?) A security check of some kind is undoubtedly necessary, but the old loyalty system was an inadequate mechanism for handling this delicate problem with fairness.

The Eisenhower administration sought to bypass the thorny problem of loyalty by classifying every unreliable employee under the catch-all category of "security risk." Although the intent was praiseworthy, the effect of the security program substituted by Attorney General Brownell has been to solve none of the old problems and create some additional ones. The steps for review of each case have been reduced from three to two. And the stigma of "security risk" is scarcely less onerous than the brand of "disloyal."

The Brownell order, moreover, lumped under the heading of "security" everything from spying to drunken driving, gossip, misrepresentation of facts in one's application form, and what is called in civil service terminology "notoriously disgraceful conduct." Long before there was any loyalty or security program, civil service regulations provided that individuals could be fired or demoted for any of these lesser offenses. Under Truman, the government ousted such employees without involving them in the loyalty program at all. Prior to the Brownell security order, such firings would have been put under the routine heading of "dismissals to promote the efficiency of the federal service." The Brownell order has served only to compound confusion in an area where it was never in short supply.

The Government's own figures on security risk dismissals are instructive in this regard.

The White House on October 23 proudly announced that in the first four months of the operation of the new security order from May 23 to September 30, some 1456 individuals had been dropped as "security risks." "These separations were for security reasons only," the statement declared. "They have nothing to do with continuing reductions in force from the federal payroll. Of the 1456 employees, 863 were dismissed from federal service by their various agencies and departments and 593 resigned. In all of the resignation cases, the agencies and departments had unfavorable reports on these employees."

This unfortunate press release has returned to plague subordinate officials responsible for security and personnel questions. It has been learned that the list was compiled hastily after Civil Service Commission Chairman Philip Young set a two-week deadline on October 5. Officials scattered in hundreds of offices around the world were not clear what Young meant by security dismissals and the result was many sets of figures with varying meanings. Since the October 23 statement, many agencies have been working to find cases that would fit the broad criteria laid down in the Brownell order even though in fact the employees involved were ousted under regular civil service procedure and not under that security order. The Post Office Department has announced that it dropped 145 employees and the Veterans Administration listed 108, but both agencies conceded that "the terminations were in accordance with regular established civil service procedure." In other words, all these employees could have been dropped even had there been no security program. They were not security risks at all in the sense that the public understands that term, that is, they were not fired because they were disloyal or had any connection with Communism.

On December 7, the Navy Department announced that 192 of the 1456 came from its department but added that only seventeen of the firings came under the security procedures. "Others were separated through resignation or reduction-in-force prior to the final processing of derogatory information, or by other administrative action during the employee's trial period."

"Reduction-in-force" means dismissal for economy reasons. This contradicted the White House statement which had emphasized these dismissals were separate from economy firings. The reference to "the employee's trial period" confirmed the widespread view that many of the 1456 were either temporary employees slated to be dropped anyway or new employees still on probation and not holdovers from the Truman Administration. In the light of these and other statements, it becomes less and less clear what the figure of 1456 refers to. In his State of the Union Message, January 7, the President raised the figure to more than 2200 but did not reduce the mystery.

ON November 23, President Eisenhower, in accepting an award from the Anti-Defamation League of B'nai B'rith, harkened back to the frontier days in his hometown of Abilene where Wild Bill Hickok enforced the law as federal marshal. Mr. Eisenhower said the code of Abilene was: "Meet anyone face to face with whom you disagree. You could not sneak up on him from behind, do any damage to him without suffering the penalty of an outraged citizen. If you met him face to face and took the same risk he did, you could

get away with almost anything, as long as the bullet was in the front."

It was a nostalgic and touching analogy. It is not one which the Administration has been able to translate into effective terms today. Senator McCarthy has shot at the reputations of Reed Harris, Theodore Kagan, and other government officials without suffering any penalties from an outraged citizenry or an outraged President. The Brownell security order perpetuates the faceless accuser and the other notable defects of the Truman loyalty system. The government employee, with no chance to meet his foe face to face, receives neither the rough equities of frontier justice nor the hard-won safeguards of due process.

The burden of protecting the civil liberties of the individual citizen rests heavily upon the man who is Attorney General. In the impartial exercise of his office, it is a responsibility equal to that of the conviction of criminals and traitors. Circumstances conspired to give Herbert Brownell an exceptional opportunity to make an impressive record. The Justice Department had been the ungarded door of the Truman Administration through which mediocrity and corruption entered and public confidence departed. By restoring administrative order and infusing new vigor into department routine, Mr. Brownell has recaptured lost ground. It would appear, however, that his years of labor in the political vineyard have narrowed his outlook and distorted his perspective, for he has also exhibited an unlooked-for partisanship, often in a mean and rancorous form.

It is not enough that the highest legal officer of the government be a man of professional competence and undoubted financial integrity if, by his acts, he arouses suspicion that he is more interested in the next election than he is in disinterested justice. Brownell's attack on the patriotism of former President Truman in the White case, subsequently retracted, was such an act. Enough has already been said about this and other political aspects of the White affair. In the present context, the important point is the precedent it may have set for the Administration's handling of security problems. Brownell compromised the secrecy of FBI reports for his own advantage by quoting some portions of them and paraphrasing others and yet insisting that security considerations prevented him from making the entire text public.

The Attorney General also posed possible serious consequences for the non-political functioning of the FBI by thrusting J. Edgar Hoover, properly one of his career civil service subordinates, into a party controversy he should have been kept out of. Hoover had the ambiguous role in the Jenner Committee hearings of the vital "swing man" in an evenly matched political dispute. His testimony was decisive in salvaging at least part of Brownell's case against Truman. This episode suggests a melancholy analogy with the MacArthur hear-

ings of 1951 when the Truman Administration relied heavily on General Bradley and other members of the Joint Chiefs of Staff to save Dean Acheson's foreign policy. Not unnaturally, Senator Taft insisted on a clean sweep of the membership of the Joint Chiefs when the Republicans won the election. Police officials like generals should be the servants and not the saviors of their civilian superiors.

THREE laws have recently been proposed to cope with the problems of subversion. One would punish native-born Communists convicted of conspiring to overthrow the Government by taking away their citizenship. This is of doubtful Constitutionality since the Constitution makes any person born in this country automatically and presumably inalienably a citizen. Since a Communist convicted under the Smith Act already loses many of the attributes of citizenship such as the right to vote, to serve on juries, and to secure a passport, the practical effect of the law would be negligible.

The Attorney General further proposes in effect to repeal part of the Fifth Amendment by giving a Committee of Congress the right to grant immunity against self-incrimination to a witness who will testify against other suspected persons. In principle, this is an extension of traditional procedure in criminal cases. Trading immunity for evidence is always a hazardous bargain. Only if the procedure is hedged with explicit safeguards will the exchange be profitable to the nation.

Mr. Brownell also favors the legalization of wiretap evidence in espionage and sabotage cases. Elizabeth Bentley has testified that the spy ring of which she was a member was too cautious to say anything significant over the telephone. It is not likely that wiretapping would trap any dangerous espionage operator.

The power to tap a phone is the same as the power to enter any man's home and search indiscriminately without a warrant. Justice Brandeis, in his dissent in 1928 in the Olmstead case, pointed out the dangers inherent here:

"Experience should teach us to be most on our guard to protect liberty when the government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding."

As an honorable man, President Eisenhower undoubtedly detests "the false species of Americanism" represented by Senator McCarthy. As a conscientious Chief Executive, he cherishes purposes that are undeniably beneficent. It is less certain that his understanding is equal to his good intentions or that he sees clearly enough the great dangers to liberty which lurk in insidious encroachment on the Bill of Rights.

The Great Debate

On EDC

Paris

FOR six weeks now I have been trying to pluck up my courage and tackle the difficult question of the European Defense Community. I envy those compatriots who plunge ahead after a few moments of reflection and say, "It is so obvious. We *must* build (or *must* reject) the European Defense Community." I admit that I would tremble if I had to make the decision for my country—and it reassures me to note the soul-searching which the problem is causing throughout my native land.

The indications of this interior struggle are legion. I think of the disputes in our political journals between the supporters and enemies of EDC; the elections for the presidency of the Republic and the Chamber of Deputies, where this question was the determining factor; the divisions within the parties themselves. (In recent weeks Gaullists have voted with Socialists, Radicals and Communists. There is even revived talk of a Popular Front.)

It should not be said that the French lack the will to carry things through simply because they themselves first proposed the idea of the European Defense Community in the persons of MM. Plevén and Schuman. Much water has passed over the dam since 1950 when Premier Plevén suggested the idea. At that time the French seemed almost unanimously in favor of such a plan; today the best minds here are wondering whether we would not take very grave risks to commit ourselves so far in advance.

The arguments of the proponents of EDC are well known. Briefly stated, they are that the day has passed for small national armies. The twentieth century is a century of continents. Germany is no longer the danger, but Soviet Russia. What could the traditional European armies do against an offensive launched from the East? A European army of many nationalities under a unified command offers the only chance of self-defense.

They go on to argue that it would be folly not to include Germany—for several reasons. A neutralized Germany would create a void in the heart of Europe. Besides, a Germany relieved of a share in the general defense effort would have such economic advantages that it would soon outdistance the other nations of the West, and even attain a position to impose its will. We

are told that if we do not integrate Germany into the European Defense Community, the United States plans to revive the German army. Wouldn't it be better, EDC advocates ask, to incorporate the German infantry into European formations and keep Germany's armaments and armed forces under control? What would be the political situation in Germany if France rejects the EDC? Adenauer has established his following on the basis of a United Europe. If the project falls through, the political upheaval in West Germany can be imagined. All these arguments carry considerable weight.

BUT the opponents of EDC also have a strong case. To begin with, they hold with General Weygand that the European army would be a poor military instrument and that if hostilities break out, a coalition of national armies would be preferable to an integration which poses terrific linguistic, psychological and political problems.

Some adversaries of the idea declare that if armed conflict should break out between the East and the West, there would not only be an all-out international war but civil wars on both sides of the Iron Curtain. Also, many soldiers in the European army—if, as contemplated, it is not a professional army—would hesitate to fight side by side with German soldiers under officers who might be former Nazis. There would be a danger of ending up with the very opposite of what we are after: the moral weakening of Europe and the disappearance of internal cohesion.

The adversaries of EDC recognize that at present the Soviet menace is greater than the danger from Germany. But, especially since Stalin's death, hasn't there been a clearly observable relaxing of tension on the part of the Russians, they ask? Whether it is sincere or not let us not discourage it, for politics is the art of seizing opportunities. Are we sure that a re-establishment of the German army, integrated or not, would not confirm Soviet diplomacy in its determination to pursue indefinitely the wearing cold war?

There is always a danger of German irredentism. Many Germans do not accept—especially as they make more headway economically—either a divided Germany or the loss of Silesia. Without seeking to provoke incidents that would lead to armed conflict, they tend to push with all their strength in the direction of rolling back the Iron Curtain.

Since the original EDC plan of integrating only the smallest armed units has been abandoned, it would be easy to reconstitute an autonomous German army under the set-up now contemplated. The American desire to utilize a German army which appears to offer greater security against Soviet aggression than the French army is understandable—especially after America's bearing the moral and financial burden virtually alone.

But the French are not at all inclined to embrace the American point of view. An EDC provisionally in American hands would become more and more of a German instrument. A France involved in the distant Indochina war against Communism, a France determined to protect her far-flung possessions, will not be able for long to withstand the German dynamism in Europe. Within five years Germany will have taken over the leadership in the European movement.

It may be said: "And then? You have only to recover as speedily as the Germans and manifest the same vitality." That is not the question. It is rather, the opponents of EDC argue, whether Europe should fall prey to Germany, to the inevitable Nietzschean temptation of a nation which they feel has become Romanized and Christianized only superficially. A counter-objective is a Europe that will uphold the humanistic civilization of the Christian West.

FOR some it is putting the cart before the horse to build up an army before defining a policy—or before establishing a European State and government. For if the army does not serve the European State, it threatens to be at the service of a non-European nation—the United States—or *one* European nation—Germany.

Here is the crucial point of the debate. The sponsors of EDC, realizing they had no superstructure, conceived the unnatural edifice of the European political community—an *ad hoc* project which would provide all the institutions, legislative and judicial, of a well-ordered state.

This would seem harder to put over with the French public than EDC itself, for it would eventually lead to the abandonment of national sovereignty or the dissolution of the nation. Such sentiments may represent too rigid an attachment to the values of the past. But only by slow stages can men pass from the smaller community to one that is more vast. To cast them too rudely from the framework of the national state into a European Babel would doubtless create a moral disorder of greater consequence than the material advantages expected from a united Europe.

In such an "indissoluble" community the French Union would have seventy deputies in the European parliament to represent one hundred and twenty million inhabitants; the other five nations would have one hundred and ninety-eight representatives for their one hundred and twenty-two million. The community would have all the functions of a sovereign nation; it would supervise the two high authorities for coal-steel and European defense; negotiate international treaties and set up a European budget; organize a common market and promote a common monetary policy.

The French find Article 83 extremely disquieting. It

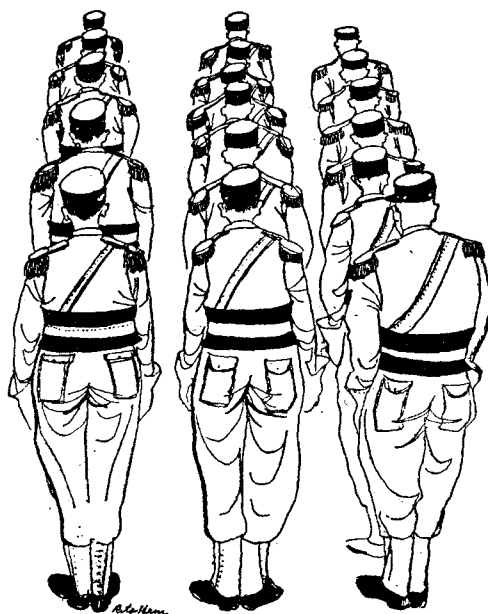
stipulates that all those from the member states who have completed their military service, and all those born after the treaty goes into effect, can settle in the other member states. Each year three hundred and fifty thousand young Germans and four hundred thousand Italians (not counting the greater numbers of the newly born) could come to live in France.

THIS does not mean that the French people are hostile to the idea of a united Europe or a European Defense Community. What they ask is that the proposed texts themselves be seriously weighed and that men do not set forth lightly along a road that may lead to a precipice.

Rather than create a European State abruptly they suggest that solutions be sought along the lines of creating structures of a federative sort. They favor a progressive associating of heads of states in a confederation through the establishment of permanent organisms directed to the common task.

The French people also claim that the only choice does not lie between a European army and a new *Wehrmacht*. There are many intermediary solutions. In this connection the Comte de Paris has won a wide hearing for his ideas on the problem. He would *associate* rather than *integrate* the military forces of the European nations in peacetime in order to secure the most effective action in time of war. In the four domains of general strategy, structure of armed units, methods of combat, and armaments, it would be possible to obtain the maximum of homogeneity without destroying the national armies, which remain the supreme expression of the national will to live.

I cite two paragraphs describing his project:



The common political organism would be constituted by the meetings of the heads of governments, who are for the most part commanders-in-chief of their respective armies and always responsible for the general policies of their country. They could delegate their powers between sessions to a "permanent committee of European defense," a sort of limited NATO comprising only the European members of that organization.

The guarantee to France relating to German rearmament would reside in the application of the idea of "strategic exposed zones" in which certain types of arms-making would be forbidden; Germany having already accepted this limitation in the EDC project (Article 107), it could thus be agreed that she would not manufacture atomic weapons, chemical or biological weapons, guided missiles, warships or military planes.



In short the alternative could be the limited rearmament of West Germany in the framework and under the control of a European organization of the NATO type in which all European members of the North Atlantic sector could participate. In place of an integration of denationalized armies in a European organism there would be an association of national armies.

I said before that politics consists in the art of seizing opportunities. It also means taking risks. Present French leaders hardly ever do that. Truly France is not governed; our bark is swept this way and then that by the currents of international incidents, the stirring of opinion, the gusts of our own economic and political feudalisms. No one takes a firm hold on the tiller. And yet the French people are always ready to heed the call of destiny.

ROBERT BARRAT.

THE STAGE

CORIOLANUS

SHAKESPEARE'S "Coriolanus," that dense and elliptical tragedy, has not been professionally staged in America for an unconscionably long time, and its choice as the second presentation of the enterprising Phoenix Theatre has consequently provoked a strong current of interest. It would be gratifying to salute John Houseman's production as a worthy response to this enthusiasm but, as in the previous case of "Madam, Will You Walk," I must again reluctantly align myself with the naysayers.

The choice of the play was, in itself, quixotic, since "Coriolanus" has at best a cold and massive grandeur too alien in its sentiment, too gritty in its language to engage us seductively. Neither simply accessible nor obviously congenial, it demands of both its players and its audience a special cultivation. It would seem that Mr. Houseman and the directors of the Phoenix chose it largely because of its supposed pertinence to current political realities, but while this impulse has a slight foundation, it is nonetheless somewhat erroneous and irrelevant. "Coriolanus" is political as life is, not in our heightened, melodramatic, "modern" sense: it is concerned with something much more subtle than the scorecard of guilt. We can see in it a traditional illustration of the tragic flaw, the heroic *hubris*, but where Shakespeare specifically excels is in his brilliant manipulation of the cynical patterns of irony: the power with which he exposes the inflexible operation of the laws of consequence.

Mr. Houseman's production releases some of this crabbed intellectual life, but too much of it is finally blunted, obscured, clogged by the inadequacies of his ensemble, and the absence of any positive style in which the play might have cohered. The virtues of this "Coriolanus" are largely those of Mr. Houseman's filmed "Julius Caesar": mobility, vigor, taste, a certain visual authority. What it lacks is aesthetic refinement to any notable degree; we are forced to conclude that however much has happened on stage, nothing has really happened to us. The evening is characterized by an atmosphere of tentative conjecture, of broken rhythms and incomplete perceptions; we have the sense that the production has failed to grasp the essential *shape* of the play.

It has become evident, if one need ever have doubted it, that this kind of authority can be achieved only by asserting again the primacy of the verse. It is not sufficient to avoid banalities of physical movement, or even to present a pleasing stage picture: the drama must be realized in verbal terms: the word is indispensable. Whatever its defects, Mr. Houseman's "Julius

Caesar" exists fully and passionately because precedence was given to the voice; in "Coriolanus" the voice is muffled and strangled. Robert Ryan, for example, who plays the leading role, brings to it intelligence, a handsome presence, and a special talent for defining dramatically the moral crises of the man of action. But all his craggy distinction cannot compensate for vocal limitations of range and resonance, and the inadequacies of an interpretation which seems fugitive and erratic. Mildred Natwick, too, as the inflexible Roman matron, softens the iron outlines of that character and so misses dramatic force in the last great scene. Only the sharp, finely pitched clowning of three subordinates, and Paula Lawrence's cool, elegant fluting in a brief role, and the dry venom of Will Geer as a hostile tribune, shattered the oppressive glaze of tedium which gradually settled on the performance.

Since it is possible to be misunderstood in these matters, let me make myself clear; by asserting the primacy of speech and voice, I do not mean to endorse the plummy, mindless effusions of, say, Maurice Evans or José Ferrer. We have seen to what dreary inanities of "official culture" that path leads. Rather, one must begin again at the simplest levels, ask the obvious questions: what is this character trying to say? what are the relations between these people? what part does this fragment play in the larger design of the work? In the text, in the words, we shall find our answer, and we may find too that so simple a gesture will recover for us whole areas of Shakespearean meaning and beauty which have lain, like sunken treasure, beneath the silt and debris of years of theatrical confusion and stupidity. (*At the Phoenix.*)

RICHARD HAYES.

THE SCREEN

THE THISTLE AND THE THORN

IN spite of the fact that "The Holly and the Ivy" is one of the talkiest English movies in a long time, it is for me one of the most interesting. I've always been a pushover for books, plays and films that gather a large group of people in one place, let them mull over their problems and conflicts and then send them on their way. Among the people welcomed by the vicar (Ralph Richardson) and his elder daughter (Celia Johnson) on Christmas Eve are the son, a rather irresponsible youth in the army, two elderly aunts, and a cousin who announces that the younger daughter, a fashion designer in London, is ill and cannot come.

But this daughter (Margaret Leighton) does arrive on a later train and it soon becomes apparent that her "illness" is alcoholism brought on by brooding over tragic events in her misspent life. Celia, who is in love

with an engineer (John Gregson) who wants to marry her, hopes that Margaret will now stay home and take care of her father. But Margaret, burdened with self-pity and guilt, finds the vicarage atmosphere and her collected relatives oppressive; and she and her younger brother go out and get plastered. On the next day, sparks fly and everyone speaks his piece.

Although the solutions to this collection of problems gathered under one roof work out rather patly, "The Holly and the Ivy" fascinated me from beginning to end; and its cast, except for Ralph Richardson who tends to ham it up a bit, is first-rate. The script, written by Producer Anatole de Grunwald from the stage play by Wynyard Browne, crackles with bright dialogue, and throughout the picture runs a spirit of Christmas that is sometimes sentimental and sometimes realistic.

ALTHOUGH the Scotch don't really win out, the English certainly get their come-uppance in "Rob Roy," Walt Disney's latest live-actor film made in the British Isles. Richard Todd plays the Scots rebel with gusto in this fast-moving eighteenth-century drama about the conflicts between the Highlanders and the soldiers of George I; Glynis Johns is lovely as his bride; and the supporting cast has plenty of brave lads, smart lairds and bonnie lassies. Director Harold French really overdid it in the Technicolor battles, but "Rob Roy" has two genuinely stirring scenes: one the funeral of Rob's mother, and the other when Rob and a few companions, complete with kilts and bagpipes, walk up the streets of London to receive the King's pardon.

PHILIP T. HARTUNG.

COMMUNICATIONS

CONGRESSIONAL INVESTIGATIONS AND MORAL THEOLOGY

Los Angeles, Calif.

TO the Editors: Although the blaze of public interest spreads rapidly . . . the moral rights and wrongs of certain phases of Congressional interrogation have not yet been widely discussed by moral theologians. . . .

Moral theology treats explicitly of the moral obligations of all the participants in the strictly judicial situation of a courtroom: of judges, litigants, attorneys, the accused, the accusers, and the witnesses. However, in this country the legislative branch of government is also empowered by law to subpoena and interrogate witnesses with a view to investigating matters that refer to the common welfare and the work of Congress. Therefore it would seem germane to transfer the general line of argument and conclusion from the courtroom situation to the quasi-judicial situation of Com-

mittee investigation. Allowance, of course, will have to be made for real and significant differences.

In this general subject moral theologians proceed without the usual benefit of Scripture or dogmatic definition, since Revelation has nothing to say on the matter. Hence moralists have to rely on common sense and natural law. Inasmuch as natural law leaves much to be determined by positive law, moralists also have to take cognizance of civil and ecclesiastical law in dealing with this general type of problem. To a large extent moral rights and duties will be co-extensive with civil rights and duties.

The first case to be considered involves the moral obligations of individual citizens to volunteer information about Communistic activities, espionage and sabotage. Moralists lay down the following general principles: First, before a man can petition a court for a judgment in his own favor or swear out a warrant for another's arrest he must have reasonable certitude about the justice of his case or the guilt of the accused, he must be able to establish a reasonable case in court, and he must follow the procedures provided by law. Second, even without a view to a civil or criminal trial, a private citizen is obliged in conscience to inform public authority if he has knowledge of a crime that endangers the public welfare, or brings injury to an innocent party. If the public welfare is at stake this obligation binds even in the case of serious personal inconvenience, though not in the case of the injured innocent party—it is not necessary to spend fifty dollars of your own money to save fifty dollars for your neighbor. Third, if positive law requires that individual citizens volunteer information regarding specific types of crime, such a law binds in conscience. Fourth, it is licit but not obligatory to volunteer information in a case of well-founded suspicion.

In applying these principles to the case at hand the following facts should be considered: First, membership in the Communist Party is not a crime in civil law. Second, conspiracy and attempt at espionage and sabotage are crimes in civil law. Third, the obligation to inform obliges in the latter situation only when the informer's knowledge is certain and the public welfare is in notable jeopardy. Non-punishment for a past crime could hardly be considered as a present danger to the community. In other words, the reason which imposes the obligation is either the determination of civil law or the removal of real jeopardy to the community. The element of certitude regarding the existence of the crime and the seriousness of danger to the commonweal are conditions which must be present before the obligation binds.

The second case is similar to the first except that it involves an ex-Communist. Is the ex-Communist bound in conscience to volunteer information about his former associates? In general this case is to be solved

on the lines laid down for the first. However, it is complicated by the circumstances that some of the ex-Communist's information might fall into the category of committed secrets. Ordinarily speaking, secret information which is received only after a promise has been made never to divulge it, cannot be divulged. In applying this factor to the case of the ex-Communist it is necessary to determine two things: Whether the matter is a committed secret, and whether the subject matter of the secret is such that a promise could be binding. Moralists hold that things which are damaging to the community as a whole or seriously damaging to a single person cannot be the subject of such a promise since everyone who has such information is obliged to make it known. The only exception, of course, would be a confessor. In applying this principle to the case of the ex-Communist it would seem that his knowledge of present conspiracy against the Government would have to be communicated to public authority. However, if his knowledge of the identity of other party members was gained only after a promise never to divulge their names it would seem that his promise would still be binding, if these persons too had retired from the Party. If they were still members and in key positions to do damage to the community or to individuals the promise would be invalid, and the obligation to inform would bind.

The third case involves not spontaneous information but testimony before a Congressional Committee by a witness under subpoena and in response to a definite question. The following principles bear on the case: First, a Congressional Committee is empowered by law to issue subpoenas and to ask questions which fall within the purview of its commission. Hence the witness is in the position of a man subject to authority and is generally bound to obey that authority. Second, the moral obligation to give testimony about oneself depends upon the determination of civil law. In this country the Fifth Amendment of the Constitution imposes no such obligation.

Third, the witness can be excused from his obligation to answer questions about other people in the following circumstances: a) if his knowledge was obtained under the seal of confession, b) if the answer to the question involves divulging matter that is a natural or committed secret, c) if there is fear of personal injury—granted that the common welfare is not at stake, d) if his information was acquired through unjust means, e.g., by reading somebody's mail, force or fraud, e) if he is uncertain of the facts to which he is asked to testify, and f) if in his own mind he is certain that the other person is subjectively not guilty of the crime although materially he did commit it. Obviously, refusal to answer questions possibly damaging to oneself is always within one's legal and moral rights. The decision to say "I don't know" to direct questions about

others could only be justified if one of the above circumstances prevailed.

The principles applied in the solution of the three cases considered above are not new, nor have they been seriously questioned by moral experts. Their application to the cases, however, is not as simple as might seem at first glance. The obligation to inform or testify frequently hinges on factors which promote or protect the common welfare. And the meaning of this phrase in the concrete circumstances surrounding the type of case under consideration requires clarification. For example, would the theft of any piece of classified information constitute espionage which would jeopardize the common welfare? . . .

Actually the various branches of our government do not follow a uniform rule in classifying information; some of it is secret merely for the purpose of simplifying public relations. Perhaps the most sensible method of determining real and serious danger to the common good at the present time would be as follows: We do have laws about treason. Courts try cases involving espionage. Cases involving the theft and transference to a foreign power of classified information which the courts are accustomed to consider as valid matter for conviction would quite obviously be serious. Unfortunately the norms which determine the classification of secret information and the norms which courts use in convicting in espionage cases do not at the present time coincide. Until they do the practice of the courts should certainly be followed in determining questions of conscience in which damage to the commonweal is involved. Other cases will have to be judged singly on their merits.

The problem of damage to the common good by espionage is further complicated by the element of co-operation. Most modern espionage is not a matter of one man assigned to steal one vital secret, but of a large staff of men each assigned to steal one small part of a jig-saw puzzle. If a given case involves the theft of a necessary part of the puzzle the agent would be responsible for the damage done by the whole body of stolen information to the common welfare. Furthermore, if there were actual conspiracy in which a given agent consented to the whole scheme, aided and abetted that scheme even in a minor role, the intention of the agent would make him guilty and responsible for the damage done by the whole scheme. On the other hand it is highly possible that a given piece of stolen information would not be a necessary part of the puzzle, and that an agent would not be admitted into the conspiracy.

What is to be said of the opinion that recourse to the Fifth Amendment is an admission of guilt? The first thing is that there is no legal problem involved. Since the trial of Aaron Burr the Supreme Court has ruled that the guilty and the innocent alike have a right to such recourse. No court in the country has ever decided a case on the grounds that recourse was an admission

of guilt, and no attorney has ever given it as his legal opinion to a client. Furthermore, a private citizen is hardly justified in expressing such an opinion. Recourse to the Fifth Amendment is always made in a judicial or quasi-judicial situation and should be judged in that context. After all, in a criminal case the accused may plead not-guilty even though he is guilty, and an attorney can plead the case knowing the same fact. If such behavior is above reproach because it is part of a judicial process provided by law, recourse to the Fifth Amendment also deserves the same respect since it is part of the same Bill of Rights.

The intent and purpose of the Fifth and Sixth Amendments, both in the minds of the founding fathers and in the mind of the Supreme Court, which ruled on the matter in a treason case, is to maintain an equal balance in the relationship between a powerless individual and a powerful government. This is done by shifting the burden of proof in criminal cases to the State. The experience of history has proved the wisdom of the procedure. The law itself makes absolutely no exception for certain classes of accusation. . . .

What is to be said of the opinion that an innocent man has an obligation in conscience not to have recourse to the Fifth Amendment? Since the natural law does not provide explicitly for this circumstance moral obligation has to be determined by civil law. Actually the determination of civil law is quite clear: the innocent and guilty alike have a right of recourse to the Fifth Amendment. And if the innocent man has a clearly defined right to such recourse it is inconceivable that he could simultaneously have a duty not to have recourse, since rights and duties are correlative. Nor can it be urged that non-recourse is a duty of piety rather than justice. If such an opinion were binding and all innocent men waived their rights to the protection of the Fifth Amendment, the purpose of the law would be defeated and the common welfare of the nation would suffer rather than prosper.

By way of conclusion the following observation comes readily to mind. Our present problem is not so much a matter of law as of tools. Our laws are basically sound, although there might be some advantage in adjusting laws dealing with security, loyalty and the classification of information as directed to conviction. There is a common assumption that the Congressional investigation is a better tool for fighting espionage than counter-espionage and police surveillance. If the people wish to favor that assumption it will be necessary to tailor the fundamental law of the land if such Committees are to be successful. A decision of such far-reaching consequence deserves to be settled in the public mind in terms of historical experience and ethical principles, rather than in terms of personal admiration or disdain for any one public official, and delayed public alarm.

(Rev.) JOHN FEARON, O.P.

Freedom of the Screen

WILLIAM P. CLANCY

WHAT the United States Supreme Court established in June, 1952, when it reversed New York State's ban on "The Miracle," it has now furthered in overruling bans on two other films, "La Ronde" and "M." "The Miracle" had been forbidden public exhibition by New York censors on the grounds of "sacrilege." "La Ronde" and "M" were banned because the censors considered them, respectively, "immoral" and "tending to promote crime." In all three cases the Court found the terms of banning too vague to admit of legal definition and affirmed that motion pictures should enjoy the same Constitutional guarantees as do speech and the press. What has been established and furthered in these three cases, therefore, is the "freedom" of the American screen.

It has been established, that is, in principle. Its full clarification may have to wait upon a long series of test cases in which the Court will, step by step, limit the censors' area of operation ever further until, finally, no area is left them at all. For the Justices have thus far refrained from spelling out the implications of their principle; they have avoided a flat declaration against any and all prior censorship of motion pictures. When Mr. Justice Douglas filed a separate opinion in the "La Ronde" and "M" cases, for example, which stated his view that *all* prior censorship of films was unconstitutional, he was joined only by Mr. Justice Black.

It is difficult to believe that the other Justices, in view of the principle established in "The Miracle" decision, and reaffirmed by them in the present cases, would not, privately, agree with their more outspokenly "liberal" colleagues. But it is also easy to see why they might prefer a case-by-case amplification of this fact to a once-and-for-all declaration of it. For a mere statement of the words "freedom of the screen" seems sure to raise an anguished cry of "moral ruin" from much of the nation's religious press.

A recent front page editorial from one of the nation's leading Catholic papers is worth quoting as an example of this:

The Supreme Court of the United States by practically ruling out all censorship has practically ruled out the concept of immorality. In effect it says, there is no such thing as morals and as a consequence there cannot be any morality or immorality. . . . When the Supreme Court of our land says that such terms as "immoral" and "tending to promote crime" are too indefinite, just as it

said two years ago that the word sacrilege was "too all inclusive," then evil times have really come to our beloved land. And all we can pray is that God will protect and save our people. . . . When in the name of "freedom of speech" and "without due process of law" purveyors of filth are able to appeal to the First and Fourteenth Amendments to the Constitution, and are able to be sustained by the Supreme Court of our land, what, we query, is this country coming to? Why is the Constitution of our land made the cloak of protection for those who would poison our minds and rob the flower of purity from our youth, just as it has been used to protect those who would change the Constitution and our form of government? . . .

THIS is fairly typical of the measure of reason and restraint to be expected from many Catholic papers whenever film censorship is discussed. In this view, no problems or ambiguities exist. The case is strictly either/or. One is either moral and therefore a supporter of movie censorship or opposed to censorship and therefore an advocate of "filth," "license" and the corruption of youth. No vexing considerations of complexity—or charity—disturb this black and white world. There are the good guys and the bad guys, the sheep and the goats. In between them are only the "confused" liberals—and most of them are goats in disguise. Considering the authority and strength of those who hold this view it is, perhaps, understandable that the Court has refrained from abolishing all prior censorship of motion pictures at one stroke, preferring to do away with it piece by piece, film by film, censor by censor.

But there can be no doubt, it seems to me, that, whether at one stroke or case by case, prior censorship of motion pictures by the State is nearing its end. The official censors are about finished, and most of them must know it. What, then, should be the Catholic course? Must we weep for the censors and mourn the death of decency? Must we join those voices in the Catholic press which cry havoc? Or can we say goodbye to official censorship gladly, take a new look at our position, and even applaud the Court's decision. I think we can and I think we should. Before we do this, however, we must discuss two issues which have re-

cently been confused with the question of constitutional procedure. These are the issues of revising the Hollywood Production Code and of the exhibition in St. Louis, in defiance of both the Breen Office and the Legion of Decency, of Howard Hughes' film "The French Line."

THESE two issues seem to me essentially irrelevant to the Constitutional questions involved in the Supreme Court's support of freedom of the screen from prior restraint. They ask different questions, demand different answers, and deserve separate treatment. But they are associated with the Court's decision in point of time and in the view of many (*ergo*, I suppose) in point of causality. A certain "pattern" has connected the three as parts of a "plot" to undermine the nation's morals.

The first question, of revising the Hollywood Production Code to bring it, in Samuel Goldwyn's words, "reasonably up to date," seems to me a question of judgment—of prudence—in which no matter of principle is really involved. Or, if we must see a principle here, I would say it should be this: let us beware of allying ourselves irrevocably with what is accidental, lest, in so doing, we lose what is substantial.

What is "substantial," from a Catholic point of view, is that the film industry subscribe to and enforce on its members some form of moral self-regulation to insure against violations of decency on the screen. But this substantial point is not in serious question now. There is no discernible danger of the movie industry's abandoning self-regulation altogether and lapsing into some orgy of license. The question Mr. Goldwyn has raised is of revising a *particular* code—and this is surely accidental, because no particular code can be perfect or above criticism. Any particular code must be, to a certain extent, arbitrary. The question of revising it is one of prudence rather than of principle.

Certainly there are good reasons for considering a revision of the present Code. (No, the moral law does *not* change, but this *particular* code is not the moral law and to equate the two seems arrogant if not blasphemous.) Some of its provisions are good; some are indifferent; some are anachronistic; some are stupid; and some are practically vicious. It is difficult to see, for example, how any Catholic could support the present Code's ban on miscegenation or its insistence that all crime must be punished in this world.

To say that there must be a Hollywood Code does not, therefore, mean that there must be *this* Code. It seems extremely unwise to speak as though the present Code were somehow *de fide* and its authors endowed with infallibility when they wrote it. Yet many Catholics seem to do just this. The result of such intransigence may be no Code at all.

For if there are anachronisms or stupidities in a particular code, as there certainly are in the present one, if some of its provisions offend against art and intelligence and others offend against prudence (as some of the present Code's provisions clearly do), and if religious men yet insist that the Code cannot be revised, that it must stand forever as it is, then more and more men of good sense will say, in understandable exasperation, to hell with any code. We will then have "freedom of the screen" with a vengeance.

The status quo, no matter how imperfect it may be, seems to hold a fascination for many Catholics because they fear that any change must be a change for the worse. History might teach us that such fascination is often fatal for the very values we would preserve. How many substances have been lost while we fought rear-guard actions to preserve an accident? From the making of how many worlds have we been absent? The question of whether or not the present Hollywood Code should be revised is obviously not world-making, but the attempt to commit Catholic opinion, *en bloc*, against even the possibility of revising it has interesting historical parallels. It is symptomatic of a tendency among us which is "reactionary" in an almost classical sense.

It seems a pity that we must make the same mistakes over and over again, and I am convinced that to set our power against even the possibility of revising the Hollywood Code is a mistake which will cost us much in the end. For this Code will, either now or eventually, be revised. The question is: will we be absent when this happens? Or, more serious, will we succeed in undermining the idea of any code at all? This is the real problem we should discuss and it is basically a problem in prudence. (Its solution might be furthered if we would desist from characterizing anyone who advocates the present Code's revision as a "libertine." This, of course, is a question of charity.)

CLOSE upon Samuel Goldwyn's suggestion that the Code be revised, Howard Hughes opened his film "The French Line" in St. Louis. The opening immediately became a *cause célèbre*. This picture had been denied approval by the Breen Office. It violated the Hollywood Code—and, apparently, in a serious sense by including a dance sequence which is practically pornographic. The Archbishop of St. Louis therefore warned his people against seeing it under pain of mortal sin. But Mr. Hughes continued to exhibit his film in violation of the Code, the Legion of Decency, and the Archbishop. What can be said of this?

First, I think, it should be said that there exists no real connection between the Hughes film and the Goldwyn suggestion. They are not the same thing. If the case indicates anything it indicates, perhaps, that there has

grown up such a general contempt for the Code as it is that the time has indeed come to take a new look at it, to restore its authority through a judicious process of revision.

Second, I think we can point to Archbishop Ritter's action against the film as a model of what should be done in affairs of this kind. Pressure is a legitimate part of the democratic process. Those liberals who attack it whenever it assumes a Catholic guise contribute only to their own reputation for confusion. The protection of moral standards is the proper task of religious authorities. In this task they have both the right and the duty to admonish, to warn, and to direct those of whose spiritual well-being they have charge. And in a free society they have both the right and the duty to make use of ordinary democratic procedures—pressure included—in order to attain their ends.

Of course, questions of ordinary prudence are involved here too. Great harm can be done by labeling "immoral" what is not clearly immoral, by crying danger too often and too loud, assuming the public role of the philistine. But the Hughes film was a deliberate and bold challenge, and it received a deliberate and bold answer. The police were not called; the State was not asked to intervene in an area where its intervention might be more dangerous than what it sought to cure. Moral authority was brought to bear through the community's conscience. And this is what the real remedy for "license" must always be in a pluralist society.

THE dire predictions of moral ruin for the nation should all official censorship of motion pictures be ended, lead one, inevitably, to a certain conclusion: that a rather shocking misunderstanding of the metaphysics of a democratic society (which include, by definition, the notions of limitation and hazard) still exists within a large body of American Catholic opinion, and that this misunderstanding is joined to an estimate of human nature that is more Calvinist than Catholic in its pessimism. To believe, for example, that if the Supreme Court rules out prior censorship it has, in effect, ruled the concept of immorality out of our national life is to reveal an attitude which would make democracy itself impossible. (Ironically, despite the current great fuss, the question of prior censorship is rather academic since only six States, plus a number of cities, actually have it.)

The Caesarism involved here is apparent. For to say that nothing can be present in our national life which the State does not maintain by force is to leave nothing but the State. And to imply that an end to compulsive morality is an end to morality is to take a dim view of human nature indeed.

In declaring for "freedom of the screen," the Supreme Court is obviously making no moral judgment. What

it is doing is, simply, applying Constitutional guarantees to a medium which has a logical claim to them. It is protecting this medium from the exercise of arbitrary power by limiting, further and further, the area in which such power can operate. This is something which all free men can applaud, and Catholics should not be the last to join in the applause, for we should know how dangerous arbitrary power can be.

The prior censorship of motion pictures, like the prior censorship of speech and the press, should be repugnant to any free society because such censorship is necessarily arbitrary to a high degree. "Due process," and "freedom" are not the dirty words some would make them. They go together as the basis of our whole constitutional system. They involve certain risks, of course, but it seems time to recognize that without risks there can be no freedom. Democracy can never be made completely "safe."

What is "immoral"? For one censorship board it may be a film in which adultery is treated lightly. For another it may be a film in which there is interracial marriage. What "tends to incite to crime"? For one censorship board it may be a novel by Mickey Spillane. For another it may be a work by Graham Greene. What is "sacrilegious"? For one censorship board it may be "The Miracle." For another it may be "The Song of Bernadette."

No moral relativism is involved in saying this. It is merely a fact which the law must recognize. Therefore, in areas where ideas are involved the public determination of such concepts cannot safely be left to the discretion of individual censors, no matter how noble their motives may be, because such concepts are obviously not accepted in any univocal sense by all the members of our society. The function of the Courts is to ensure against their arbitrary definition. And this can be done only through the abolition of prior censorship and the guarantee of due process.

Let the State have laws on its statute books which define, as precisely as possible, what is prohibited on the grounds of "obscenity," or of "tending to incite to crime." Let those who defy such laws be tried in open court. Let them, if convicted, be severely punished. Let us, by all means, be protected against the exploiters of vice. But let us be protected also against those who, in the name of virtue, would sustain public procedures which are in clear violation of democratic process. Democracy must, sometimes, be saved from the righteous as well as protected against the wicked. This, it seems to me, is what the Supreme Court is doing as it goes about establishing freedom of the screen in the United States. The country has survived with freedom of speech and of the press; it will probably survive with this new freedom. The unfortunate thing is that too frequently it is Catholic voices which are raised most violently in protest and fear whenever a freedom is born.

The Pilgrimage of an American Poet

i SIX NONLECTURES. By e e cummings.
Harvard. \$3.

By ANNE FREMANTLE

T. E. Lawrence told Robert Graves that he preferred e e cummings' prose to his poetry: "His verse-practice had given atmosphere to his prose, and balance and rhythm to the construction of his book." That book was *The Enormous Room*, first published in 1922. "The best of the war books," T. E. Lawrence called it, and even after another war, it has kept its place. It is irony that two of the best World War I books, that of cummings and David Jones' *In parenthesis*, should have been written by people who were primarily painters and pacifists.

In these Charles Eliot Norton lectures of 1952-53, delivered at Harvard, e e cummings reverts to prose, after a lifetime of verse. True, the prose is well larded and spiced with

poetry, his own and other people's, but this tremendously personal autobiography in six chapters is the story of one who, like Ulysses, comes home after a lovely trip, and it is also a reversion to other things than prose. Indeed, this frac-coated volume is a wonderful round-trip to the womb book, tying up tidily one typically American life. A lifetime of gracious living, the garden club set would say it represented, and there is something solid and satisfying, something carved meticulously from Washington's mythical cherry tree and christened in Walden's mystic pond, about the perfect pattern made by e e cummings' pilgrimage.

The facts are few. Born in 1894, son of a Unitarian minister who had been a Harvard teacher, edward estlin cummings, whose family traces their descent from the Red Comyn whom Robert Bruce killed in a church, grew up with his sister

a few doors from Josiah Royce, who taught him to appreciate Rosetti's sonnets, and William James to whom he owes his existence, as James introduced cummings' father to his mother. It was a "true home," and e e was born in it, "a finely and solidly constructed mansion," with a large oval lawn and ringed with an imposing white-pine hedge. Only "a butterfly's glide" away, began a "mythical domain of semiwilderness, separating cerebral Cambridge and orchidaceous Somerville"—A truly magic realm, and here in the woods where stood Charles Edward Norton's palace, little e e first met Nature: "here my enormous smallness entered her illimitable being." His growing-up was idyllic, "my joyous fate and my supreme fortune" was that his parents loved each other and their children more than themselves.

Too happy a childhood is as

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dangerous—perhaps more dangerous—a soil for the human heart to grow in as too tragic a one. It is probably the unmitigated joy of an English childhood, ravished and forever destroyed in the first week of prep school (usually undergone at age seven), that gives so many of the brilliant British that stultifying Cincinnatus complex, so that only a few (mostly toughs like Churchill, or Etonians) survive to write. Since all their inner growth and experience is frosted by the first school, the gates of Paradise are the nursery bars, and the fall is too sudden and too soon. e e was tremendously lucky in that he need not look back, like Graham Greene, to a bitter green baize door, but to a gentle, gradual descent that with wheel's turn is come full circle again to as great, or greater, adult happiness.

e e cummings' verse has always been, as Fred Millet put it "experimentation of a . . . purely external sort." His typographical oddities, Millet suggests, derive from Guillaume Apollinaire, and distract the reader from e e's "genuine tho per-versely exhibited gifts." Millet commends his passion, which he compares with that of the metaphysical poets, but adds, gloomily, "the freakishness seems insatiable." It is as though the natural rebellion, that is an integral part of growing up, in e e was pointillist, a "cheeking" of his own language that in some way recalls the sudden familiarity with his elders that will make an adolescent call his father "old bean" instead of Sir, or his mother "chum" instead of Mom.

In these nonlectures there is a tremendous sense of *eidōs*: the tone of all six is prefaced by the wish that e e evinces that his days might be "bound each to each by natural piety." Indeed, they all respire a wonderful atmosphere of piety, almost Confucian in its sweetness. Gone are the days when e e translated Louis Aragon's *The Red Front*:

Proletariat know thy force and
unchain it

It prepares its day Know how to
see better

* * * * *

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among the faded flowers of old
decorations
the last clothes and the last what-
nots
underline the strange survival of
knick-knacks
the worm of the bourgeoisie
vainly tries to join its scattered
fragments
Here a class convulsively agonizes
family memories disappear in
fragments
put your heel on these vipers
which are awaking
shake the houses so that the tea-
spoons
will fall out of them with the bed-
bugs the dust the oldmen

But it is not teaspoons that fall out
of these nonlectures. It is rather a
fragrance of delight in "all that
pities," and in his peroration e e is
as orthodoxly devout as William
Faulkner in his Nobel Prize address.
It is as though the "hunter was
home from the hill" and e e cum-
mings the painterpoet is become one
with his father, the preacher. He
writes of "the immortality of the
creative imagination and the in-
domitability of the human spirit";
he quotes the early Wordsworth in
a context more reminiscent of the
later; "artists, I feel, are human be-
ings," he states, and adds "whereas
a world rises to fall, a spirit descends
to ascend." He is now sure, after
the "mystery of transition" from
which he emerged, that "an artist,
a man, a failure" is "a givingly
eternal complexity, a feelingly illimi-
table individual: whose only happi-
ness is to transcend himself, whose
every agony is to grow." And in his
poems, hierarchic, conservative, in-
finitely lyrical and classical, he
matches the great examples he cites.
His "when serpents bargain for the
right to squirm" and the one that
ends "All lose, whole find" are per-
fectly set beside Swinburne if not
yet Shakespeare. And his affirmation
of the Deity is excellently in keeping
with the tenure and temper of his
life and mind:

how should tasting touching hear-
ing seeing
breathing any -lifted from the no
of all nothing - human merely
being
doubt unimaginable You?

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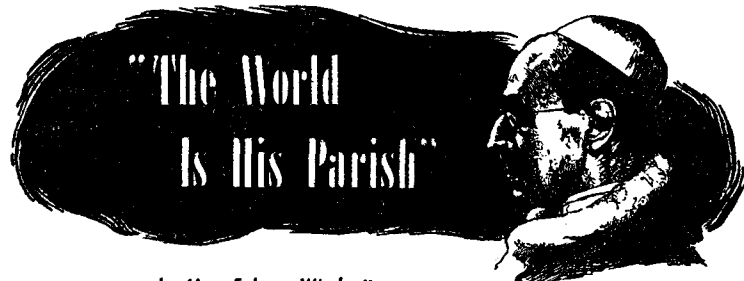
By CAROL H. WEISS

CHASE College, the scene of
Take the High Ground, is so
realistic that you can practically
smell the ivy. It is a small liberal
arts college in New England, and its
faculty, for a change, is neither
bitter, frustrated, subversive, nor
even, in the older tradition, absent-

minded. There is some petty poli-
ticking and pretentiousness, and a
studiedly charming young college
president who keeps his sights level-
ed on the balance sheet at the end
of the fiscal year. But on the whole,
the people in the novel enjoy their
work and their lives, and meet
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an attractive young English instruc-
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by his previous experiences (which don't turn out to be quite as tragic as he pictures them), he tries to maintain a detached approach to the life around him until he can find the balance and security he is seeking. But inevitably he becomes involved—in the hostessing rivalries of faculty wives, in the administration's emphasis on grades and distribution curves, in a student's search for direction. Most uncomfortable of all, he allows himself to be lured into an affair with the wife of one of his colleagues.

The author builds up the atmosphere and the plot with style, dropping in some trenchant comments on college mores. But about midway through, the plot begins to sag. Things just go too well for Giles. An article of his published in *Harper's* wins the support of the administration, and the magnanimity of the woman in the case unties the apron strings. His crises evaporate before he gets around to making any decisions.

Nevertheless, it's worthwhile hearing what Everett Marston, himself a professor of English, has to say. He has provided himself with a cynical character and an idealistic one, and between them, they offer a good bit of insight into the business of teaching—the drudgery of most of the work, and the rare rewards of finding a responsive mind and helping that human being grow in dignity and competence and self-sufficiency. Professor Marston has said that he has stayed in teaching not because of scholarship or creative activity but “because of human relationships with young people.” Giles Harmony, groping his way toward maturity at Chase College, finds that such relationships can provide the basis for a satisfying life.

The Psalms

BREAD IN THE WILDERNESS. By Thomas Merton. New Directions. \$6.

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obligation, and since it is truly vast, one often gets little beyond a hurried verbal recitation wherein "blind" obedience is more necessary than virtue. In endeavoring to lay bare the theme and the goal of the Psalms, Thomas Merton has rendered the same service to those who try to raise their hearts to God, as would a musician who laid bare to the listeners the dominant theme of a symphony.

He even shows, consoling thought, how mere erudition is a blind alley. For the soul, if but humbly and purely intent upon praising God to the best of its ability, is destined to be swept upwards by the grace of God from mere words and dogged intellectual effort to divine understanding. The explanation is nothing more astounding than the promised fulfillment of Our Lord's words: "Knock, and it shall be opened unto you." Thus it occurred to Saint Teresa of Avila, despite a somewhat sketchy latinity, to be suddenly illuminated as to the inner meaning of various verses of the Psalms and to be swept upward in contemplation. Thus it continues to occur to other souls who seek with their hearts to identify themselves with these divinely inspired words which embrace, says Saint Thomas Aquinas, all of Scripture and all of Christ, the way, the truth and the life.

In his exposition, Thomas Merton is but continuing and reaffirming the solid doctrine of such saints as Augustine, Bernard, Teresa, and John of the Cross. But Father Merton's special gift is to make evident for his own time that the reckless love of God, as once for grandees of Castile and anchorites of Egypt, so now for the world of the cocktail party and the Jaguar, breaks forth ever fresh and ever compelling. For the twentieth century he communicates something of the impetuous enthusiasm for the things of God which Saint Teresa of Avila must have communicated to those around her. As in Saint Augustine, there is the felicitous use of the contrasting metaphor: "This is the great paradox of charity: that unless we are selfish enough to become perfectly unselfish, we have not charity . . . Love that finds Him in the mystery

of a presence that is only secret because it is too blinding in its obviousness to be seen by us. . . . The Liturgy is not a search for something we have not, but the celebration of what we already have."

When speaking of charity as our only deliverance, Father Merton, at first perplexingly, says: "Note that I say charity and not love . . ." One wishes that Father Merton might see fit skilfully to introduce some of the clear defining of Saint Thomas who can say, less paradoxically, that charity is love, the love of

friendship. Did not Saint Teresa at crucial moments cherish her Father Baez, a Thomistic dialectician who, as such, protected the little convent of Saint Joseph from extinction and intrepidly vindicated the genuineness of her experience?

REVIEWERS

Carol H. Weiss is a free-lance critic who reviews frequently for this magazine.

Father Pierre Conway, O.P., teaches philosophy at Saint Joseph's Priory in Somerset, Ohio.

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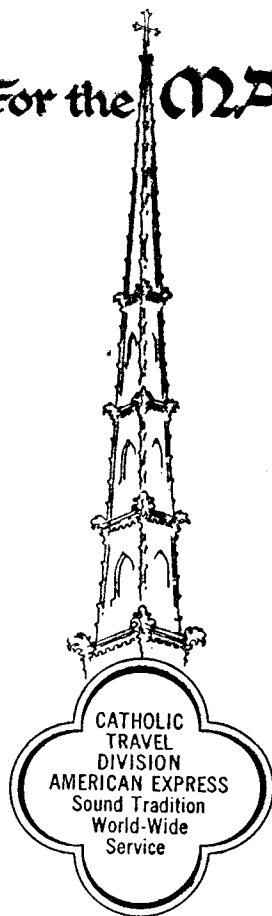
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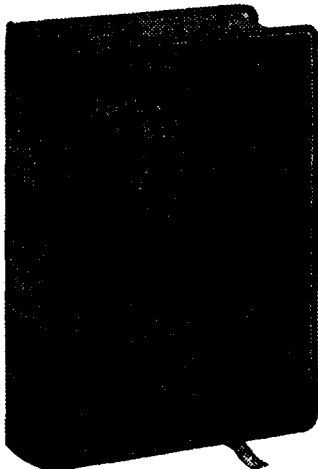


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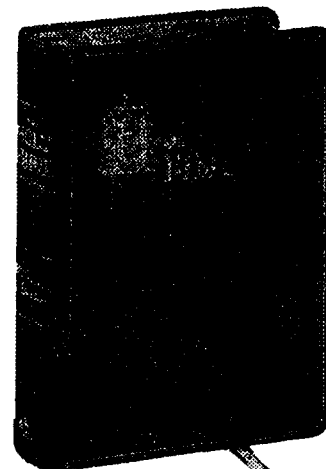
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